

REMARKS

The present application has been reviewed in light of the non-final Office Action dated July 21, 2008. Claims 1, 14, 18, 21, 28 and 31 are pending with claims 1 and 21 being in independent form. By this Amendment, claims 1 and 21 have been amended to clarify the claimed invention.

Claims 1, 14, 18 and 21 were rejected under 35 U.S.C. §102(e) as being purportedly anticipated by U.S. Patent Application Publication No. 2002/0010486 to Hirt (hereinafter "Hirt").

Applicants have carefully reviewed the Examiner's comments and the cited art, and respectfully submit that independent claim 1 is patentable over the cited art for at least the following reasons.

Hirt, as understood by Applicants, relates to a device for removal of calculi by using an intracorporeal lithotripter. Hirt describes an impact probe 20 passing through the hollow of a sonotrode 8 such that probe 20 lies coaxially within sonotrode 8. It is contended in the Office Action that Hirt discloses a probe arrangement structure formed by dividing a cylindrical-shaped or circular-tube-shaped structure in the longitudinal direction, as provided in independent claim 1.

To clarify the distinction between the claimed calculus treatment apparatus provided in independent claim 1 and the device described in Hirt, claim 1 has been amended to indicate that (i) the first probe has a C-shaped cross-section, (ii) the second probe has a C-shaped cross-section, and (iii) a probe arrangement structure is formed by arranging the first probe and second probe into a cylindrical-shaped or circular-tube-shaped structure in the longitudinal direction.

Support for the proposed amendment can be found at, for example, page 31, lines 2-9, of the specification.

Applicants respectfully submit that Hirt fails to disclose or suggest each and every feature of the calculus treatment apparatus recited in amended independent claim 1.

Dependent claims 14 and 18 include all of the limitations of independent claim 1 and are believed to be allowable for the same reasons discussed above, as well as for the additional subject matter claimed therein.

Independent claim 21 has been similarly amended and thus can be patentably distinguished over Hirt for at least the same reasons as provided above.

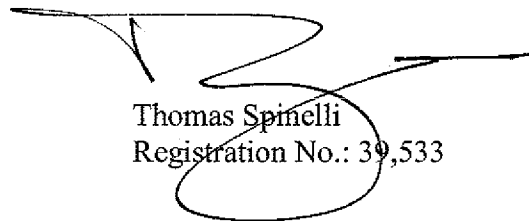
Accordingly, withdrawal of the rejections under 35 U.S.C. §102(e) is respectfully requested.

Claims 28 and 31 were rejected under 35 U.S.C. §103(a) as being unpatentable over Hirt in view of U.S. Patent Application Publication No. 2004/0127925 to Du, et al. Claims 28 and 31 include all of the limitations of independent claims 1 and 21, respectively, and are believed to be allowable for the same reasons discussed above, as well as for the additional subject matter claimed therein.

Accordingly, withdrawal of the rejections under 35 U.S.C. §103(a) is respectfully requested.

In view of the above, it is respectfully submitted that this application is in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicants' attorneys would be advantageous to the disposition of this case, the Examiner is requested to telephone the undersigned.

Respectfully submitted,



Thomas Spinelli
Registration No.: 39,533

Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530
(516) 742-4343
TS/WC:vh